

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)	
)	
Connect America Fund)	WC Docket No. 10-90
)	
A National Broadband Plan for Our Future)	GN Docket No. 09-51
)	
Establishing Just and Reasonable Rates for Local Exchange Carriers)	WC Docket No. 07-135
)	
High-Cost Universal Service Support)	WC Docket No. 05-337
)	
Developing a Unified Inter-carrier Compensation Regime)	CC Docket No. 01-92
)	
Federal-State Joint Board on Universal Service)	CC Docket No. 96-45
)	
Lifeline and Link-Up)	WC Docket No. 03-109
)	
Universal Service Reform – Mobility Fund)	WT Docket No. 10-208

COMMENTS OF ALASKA COMMUNICATIONS SYSTEMS GROUP, INC.

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Executive Summary

Alaska Communications Systems Group, Inc. (“ACS”) supports the Commission’s efforts to take into account the unique challenges of deploying, operating and maintaining fixed and mobile voice and broadband networks in the extreme environment of Alaska. ACS nonetheless is finding that implementation of the Commission’s recent *Connect America Fund (CAF) Order* will prove to be a challenge of historic proportions. New pricing rules, new rules governing federal support, new reporting requirements and new record-keeping requirements all place substantial burdens on ACS, create uncertainty about future revenues, and affect the highly competitive market for voice and broadband services in Alaska.

In these comments, ACS responds to the universal service portions of the Commission’s *Further Notice of Proposed Rulemaking*. ACS comments only on those issues that will most directly affect universal service in Alaska. ACS supports a number of the Commission’s proposals, and offers some Alaska-specific refinements to reflect the realities facing ACS and other Alaska service providers. To summarize, ACS supports:

- Adjusting speed and latency requirements, as well as the definition of a served or unserved “location,” for the technology (fixed vs. mobile, terrestrial vs. satellite);
- Limiting the evaluation of reasonable comparability of rates to rates within a state, within the same technology platform, and within a single provider or family of providers, wherever possible;

- Eliminating outmoded regulation such as carrier-of-last-resort obligations, common carrier service discontinuance requirements, and dual accounting requirements under the Uniform System of Accounts;
- Permitting ETCs to offer a Lifeline-only voice service;
- Dropping the letter-of-credit requirement for CAF and Mobility Fund recipients, and relying on self-reporting and field audits;
- Eliminating outage reporting requirements related to the number of affected mobile service customers;
- Structuring the Phase II Mobility Fund auction in a way that promotes service to areas of Alaska that otherwise would be unserved, such as providing support for a ten-year term with an expectation of renewal, and providing for support throughout the state.

TABLE OF CONTENTS

EXECUTIVE SUMMARY.....	i
I. INTRODUCTION.....	2
II. BROADBAND PUBLIC INTEREST OBLIGATIONS (§§1012-1030).....	2
A. <i>Measuring Speed and Latency</i>	3
B. <i>Counting Locations Served</i>	4
C. <i>Reporting on Speed and Latency</i>	7
D. <i>Evaluating Reasonable Comparability of Prices</i>	8
III. TELECOMMUNICATIONS SERVICE OBLIGATIONS AND CHANGES IN SUPPORT (§§1095-1102).....	10
A. <i>Eliminating Unnecessary Regulation</i>	10
B. <i>Supporting Lifeline Customers With Voice-Only Offerings</i>	11
C. <i>Eliminating Disparate Accounting Regulations</i>	12
IV. ENSURING ACCOUNTABILITY (§§1103-1116).....	13
V. REPORTING OBLIGATIONS FOR MOBILE SERVICE PROVIDERS (§§1117-1120).....	15
VI. MOBILITY FUND PHASE II (§§1121-1188).....	16
A. <i>Determining What Areas Are Eligible For Support According To Whether They Are Served By a Particular Technology</i>	16
B. <i>Use of a Cost Model To Identify Areas Eligible For Support</i>	16
C. <i>Framework for Competitive Bidding</i>	18
D. <i>Term of Support</i>	20
E. <i>Tribal and Alaska-Specific Issues</i>	20
VII. CONCLUSION.....	23

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COMMENTS OF ALASKA COMMUNICATIONS SYSTEMS GROUP, INC.

Alaska Communications Systems Group, Inc., on behalf of its operating subsidiaries (“ACS”),¹ hereby responds to the Commission’s *Further Notice of Proposed Rulemaking* in the above-captioned dockets.²

¹ In this proceeding Alaska Communications Systems Group, Inc. represents four

² *Connect America Fund et al.*, Report and Order (“CAF Order”) and Further Notice of Proposed Rulemaking (“FNPRM”) in WC Docket No. 10-90 *et al.*, FCC 11-161 (rel. Nov. 18, 2011). As requested by the Commission, ACS herein responds to Sections A through K of the FNPRM.

I. Introduction

The FCC's CAF Order and FNPRM already is having profound impacts on ACS and the State of Alaska. ACS has been active in every round of these proceedings, and appreciates the Commission's willingness to take additional public comment on some aspects of its new universal service program. ACS comments herein on selected portions of the FNPRM (indicated by paragraph number) the outcome of which particularly will affect the universal availability of broadband and voice services in Alaska, as well as the providers of those services. These comments respond to the Commission's questions in the order in which they are posed in the FNPRM, and additional issues are raised where they appear to be most closely related to the issues posed in the FNPRM.

II. Broadband Public Interest Obligations (¶¶1012-1030)

The Commission seeks comment on the appropriate methodology for measuring "broadband" for purposes of assessing whether universal service support is both sufficient and being used for the purpose for which it is intended, as required by the Communications Act of 1934, as amended ("Communications Act" or "Act").³ The Commission already has adopted specific speed and latency requirements for recipients of Connect America Fund ("CAF") and Mobility Fund support, but seeks comment on whether uniform measurement of these criteria is possible across different technologies. FNPRM ¶1014. Similarly, the Commission seeks comment on how eligible

³ 47 U.S.C. § 254(e) ("A carrier that receives [Federal universal service] support shall use that support only for the provision, maintenance, and upgrading of facilities and services for which the support is intended. Any such support shall be explicit and sufficient to achieve the purposes of this section").

telecommunications carriers (“ETCs”) should report on their performance in deploying broadband networks and providing supported services. FNPRM ¶¶1015-17.

A. Measuring Speed and Latency

ACS agrees that measurement of speed and latency will differ between wireline and mobile wireless platforms, but this is not the only difference that the Commission should take into account. In Alaska, a good deal of broadband capability is provided over networks that incorporate several technologies, for example: fiber optic cable combined with copper plant, coaxial cable used in combination with point-to-point microwave radio links, cellular-based mobile radio used with fiber-based backhaul, and so on. Moreover, the nearest Internet access point is not in the state at all, so all broadband Internet connections involve transmission via an undersea fiber-optic cable or satellite hop to the Internet access point in Seattle, Washington.⁴

Due to the unique geography and the diverse methods of providing service to customers in Alaska, ACS urges the Commission to make clear that measurements for speed and latency in Alaska should only be for the components of the network over which ACS has control. While the Commission has a reasonable interest in monitoring the end user customer’s experience with regard to speed and latency, it is impossible for ACS to measure or control either in the portions of the network that extend beyond the network interface device (“NID”) into the customer’s premise or beyond the hand-off of traffic to

⁴ Almost everything about providing communications services in Alaska is unique and sets its service providers apart from what other carriers across the country experience. Yet another example, with Internet access points that are located outside the state even the time of day when testing is performed can affect and skew measurement results.

an ISP or backhaul provider.⁵ ACS cannot commit to meet an end-to-end standard when it has no way of controlling the bookends of the network that influence a customer's broadband experience. For the parts of the network over which ACS has control and can measure speed and latency, ACS submits that measurements in Alaska should be performed using a sampling method, either by random sampling or at a selected geographic area, and ACS recommends that measurements should be based on performance at the "service node."

For fixed networks, measurements should be for a specified number of customers served from a Digital Subscriber Line Access Multiplexer ("DSLAM"), and for wireless networks, measurements should be for a specified number of customers served by a wireless site. As the capabilities and accuracy of customer premises equipment improve, and as better wireless monitoring becomes more widespread, ACS expects that it will be able to extend its speed and latency measurements beyond the service node. Before testing and measurements beyond the service node are required, however, ACS would need to ensure that the measurements are reliable to a high degree of confidence.

B. Counting Locations Served

Although not raised in the FNPRM, another related issue merits further consideration by the Commission in this proceeding, which is the meaning of a "location" for purposes of the build-out and service requirements. The Commission's new rules will require price cap incumbent local exchange carriers ("ILECs") applying for Phase I CAF

⁵ Adding to the lack of control over the ends of the network is the complication that many different forms of transport are used in Alaska with varying capabilities and customer affecting issues. Similarly, at the customer premises speed and latency can be affected by customer modem and computer limitations.

support to calculate how many unserved “locations” they can serve within three years at 4Mbps downstream/1Mbps upstream for every \$775 in support, for example. 47 C.F. R. §§54.312(b)(2), (4). Recipients of Phase II CAF support similarly will be required to bring 4 Mbps/1 Mbps to 85% of supported locations within three years and to all supported locations (as well as bringing higher speeds to a certain number of supported locations) within five years.⁶

There are many factors that ACS must consider in assessing whether it can serve a “location” for each \$775 of CAF Phase I support. The Commission’s direction is crucial in determining whether ACS will seek CAF Phase I support and in ensuring that it can comply with associated reporting requirements. The direction likely should be different for fixed and mobile services.

For fixed networks, it would be unreasonable to require an ETC to deploy facilities to the premises of every residence, business address and institution within a geographic footprint without any indication of whether or how many customers would subscribe to the covered services. The Commission should clarify where, exactly, an ETC must measure whether a “location” is served under these rules – for example, must each individual customer premises be “served” by some connection that need only be activated? Or would the coverage requirement be satisfied if the ETC has made broadband and voice service available to an aggregation point from which service easily could be deployed? Or does the requirement mean that the network must extend all the way to the customer premise? When providing service to office buildings, schools and

⁶ See *CAF Order*, *supra* note 2, at para. 160.

libraries, and hospitals, does one connection to the building meet the requirement of service to that “location” or are multiple connections required to comply? For mobile services, only the spectrum “footprint” needs to cover the locations where customers might wish to subscribe – thus, the FCC requirement that service cover the entire supported area, including the cell edge.⁷

For both fixed and mobile services, the need for backhaul is a significant factor when assessing the cost of providing service in Alaska. Today ACS builds its network on the basis of oversubscription because patterns of network usage vary and ACS must judiciously control its capital expenses. Accordingly, ACS builds its network taking into consideration factors such as usage variances in rural and urban areas as well as usage variances between peak times for business and residential consumers. ACS seeks clarification from the Commission as to whether service to a “location” will permit it to continue to build its network using backhaul oversubscription, or whether service to a “location” will require full bandwidth access all day, every day, and everywhere. ACS urges the Commission to address the necessity for oversubscription in determining whether a “location” is considered served. The Commission’s direction here, as with the other questions that have been raised for Commission direction, are critical in assessing whether ACS can provide service to a “location” for \$775.

The Commission should clarify the point to which fixed and wireless network operators must build out in order to meet the requirement that they serve a particular “location.”

⁷ *CAF Order* at para. 362.

C. Reporting on Speed and Latency

In the FNPRM, the Commission seeks comment on how ETCs should be required to report speed and latency data to demonstrate compliance with the new performance requirements. FNPRM ¶1016. ACS believes the Commission should consider not only whether ETCs should be required to provide their raw data, but also how such data may be aggregated, and at what point it must be measured. ACS cautions the Commission against adopting a requirement to provide raw data at every served “location” – ACS does not have the capability to measure speed and latency at each individual customer premises,⁸ and such a requirement would be extremely costly and burdensome to implement.⁹ In the past, ETCs such as ACS were required to certify to the state that they were using their universal service support to provide the supported services (as prescribed by the

⁸ ACS has a limited ability to report on speed and latency beyond the NID, particularly due to lack of visibility into older customer modems. While some customer premises are outfitted with newer modems with better measurement capabilities, ACS’s measurements to such premises still are limited. Specifically, measurements to newer modems are impacted by factors outside of ACS’s control, such as backhaul constraints, middle mile bottlenecks, inside wiring quality, and the speed of home wireless routers. The measurements to customer premises today typically also require a technician to physically go out and test between the Central Office and the NID, a manual, labor-intensive effort. On the other end of the connection, measurements for speed and latency of Internet access often are skewed due to the length of transport to the nearest Internet access point, which for Alaskans is located in Seattle, Washington, where there may be added bottlenecks, all of which is also outside of ACS’s control.

⁹ While it is obvious that receipt of support is for the network and services in areas that are often remote and difficult to serve, the Commission’s reporting requirements should also necessarily reflect the reason such support is necessary. Reporting on speed and latency for fixed connections or mobile handsets on a regular basis will be difficult and burdensome exactly because the areas served are remote and difficult to serve. ACS urges the Commission to implement reporting that takes these factors into consideration.

Commission, plus any state requirements) in accordance with Section 254(e) of the Act.¹⁰ ACS recommends that this type of certification remain the central reporting requirement going forward, backed by occasional USAC or FCC spot audits in the field to ensure that actual broadband performance at a sample of customer locations meets reported metrics.¹¹

If the Commission does decide to adopt detailed data reporting obligations for ETCs going forward, ACS supports the proposal (FNPRM ¶1017) to ease measurement and reporting obligations for smaller ETCs, particularly those that do not have the scale to purchase new software or hire additional personnel to comply with new reporting requirements. As a company with less than \$500 million in annual revenues, ACS should qualify for any such relief granted by the Commission.

D. Evaluating Reasonable Comparability of Prices

The Commission seeks comment on appropriate measurement and reporting of “reasonable comparability” in prices for supported voice and broadband services. FNPRM ¶¶ 1018-1027. ACS supports a local approach as well as one that is technology-specific. The Commission already has found that voice telephony rates vary considerably from state to state, both in terms of basic local calling rates and in the design of calling plans.¹² ACS believes that comparing fixed and mobile services will be even more difficult.

¹⁰ See note 3, *supra*.

¹¹ ACS understands the Commission’s desire for accountability from recipients of federal support mechanisms, but cautions that oversight should not create burdens to carriers that result in provider inefficiency.

¹² See *CAF Order* at paras. 235-236.

The Communications Act does not require that all customers in a state have access to exactly the same services at the same rates – only that rural customers have access to services reasonably comparable to those available to urban customers, at reasonably comparable rates.¹³ ACS therefore believes that the Commission should simply focus on rates provided within a state, within a technology platform, and within a single provider or family of providers wherever possible. For example, the Commission could compare urban and rural rates within the ACS LECs’ coverage area to ensure that the ACS LECs are providing rural service at rates comparable to their urban services. Similarly, it would satisfy the statute if the Commission compared ACS Wireless’s rates in urban and rural areas. The Commission should adopt a presumption that, if a provider (or its affiliates under common ownership or control) offers reasonably comparable rates, terms and conditions to both urban and rural customers, it meets the Act’s requirements that services are reasonably comparable.¹⁴

¹³ 47 U.S.C. § 254(b)(3).

¹⁴ See FNPRM para. 1027. This presumption should only demand *reasonable* comparability, as required by the statute, because not all plans may be offered in all areas due to lack of demand – for example, very high-capacity broadband capability may not be available in a location with no enterprise customers. Specific evidence of unmet demand in the rural area for services available in an affiliated urban area, or specific evidence that a rural customer is unable to obtain reasonably comparable service at a reasonably comparable rate, should be necessary in order to rebut the presumption. ACS recognizes that its proposal for “reasonable comparability” would apply only to companies that serve both rural and urban markets; for other carriers, comparability could be evaluated against the rates of unaffiliated carriers in the same state.

III. Telecommunications Service Obligations and Changes In Support (§§1095-1102)

A. Eliminating Unnecessary Regulation

In part F of the FNPRM, the Commission seeks comment on various ways of reducing traditional common carrier or telecommunications service provider obligations in circumstances in which federal universal service support is reduced or eliminated.

Eliminating unnecessary regulation not only is good policy but also is required by the Communications Act. ACS has long argued that it would be irresponsible to maintain “carrier of last resort” (“COLR”) and similar legacy service obligations without the opportunity for just and reasonable compensation. In areas where market prices are sufficient to compensate carriers, service will continue without any regulatory compulsion, so these requirements are simply redundant. In areas where service is not economically feasible without subsidy, these regulations are unjust unless linked to support.

Thus, the Commission should relieve telecommunications carriers of their service obligations under Section 214 of the Act, without requiring them to seek discontinuance authority, in any location where they have not accepted universal service obligations and support. FNPRM §§1095-96. Therefore, the FCC should not impose public service requirements not adequately supported by universal service funding. To the extent that the Commission continues to defer to the states regarding COLR obligations, states should be instructed to ensure that adequate revenues are available to compensate providers for these ongoing obligations. Where such revenues or state-sponsored support mechanisms are not forthcoming, or are insufficient, providers should be allowed relief from state

COLR obligations. Providers should also be allowed to appeal the denial of such relief directly to the FCC.

Along the same lines, the Commission should limit any new service obligations it imposes on ETCs to the area in which support is provided and to the demand that exists at the time the obligations are assumed.¹⁵ FNPRM ¶ 1101. In the current environment, all such obligations to act as a “common carrier” or provider of last resort should be coupled with the support amount deemed necessary and appropriate for service that satisfies the requirements of the Communications Act. If support is targeted to a census block, the obligations should stop at the census block boundary.¹⁶

B. Supporting Lifeline Customers With Voice-Only Offerings

In the FNPRM, the Commission asks how best to ensure that low-income consumers continue to have access to Lifeline service, particularly where those consumers wish to subscribe only to voice service. FNPRM ¶ 1102. Understandably, the Commission is considering the possibility that some customers may not want broadband service, but the Commission essentially is forcing ETCs to offer it throughout their service territories or lose all high-cost support. In Alaska, ACS provides voice service to Lifeline customers both in urban areas where ACS receives little or no universal service support and in rural areas where ACS receives high-cost support today but may not receive CAF

¹⁵ Alaska providers should not be responsible for providing significant new broadband connections in rural areas that were not anticipated at the time of the commitment to provide broadband in exchange for federal funding. In particular, Alaska often has large natural resource developments in remote areas to which it would be extremely expensive to increase service.

¹⁶ ACS notes that it does not believe that any single geographic unit – study area, wire center, census block, etc. – will always provide a reasonable geographic boundary for a supported service area.

support going forward. As a practical matter, the Commission's policies promoting universal broadband availability, and eliminating high-cost support for services that fail to meet the FCC's broadband requirements, will force ACS to offer broadband service anywhere it is economically feasible, either because market conditions support it or because CAF support will be sufficient, but to withdraw *all* services elsewhere.

ACS believes that standalone voice service will not be economically feasible in parts of Alaska in the absence of some form of subsidy. Therefore, if the Commission determines that Lifeline customers should be permitted to purchase voice-only service, then service providers should be permitted not only to make available a voice offering *only to Lifeline customers*, but also to receive support to make such service possible. ETCs should be relieved of the obligation to offer standalone voice service in the absence of Lifeline support and, where needed some other voice service subsidy. Even if the Commission provides Lifeline support so that carriers can provide a Lifeline voice-only service, such support alone may not be sufficient to maintain the network in markets where the carrier receives no other support and revenue is declining, especially in light of the rigorous new broadband requirements applicable to all ETCs. In this situation, the carrier will likely have no other choice but to terminate all services in that particular market, including Lifeline voice-only service.

C. Eliminating Disparate Accounting Regulations

Although it was not proposed in the FNPRM, ACS believes the Commission should undertake Part 32 rule changes at this time, as a necessary and appropriate corollary to eliminating legacy common carrier rules for the new, more market-driven environment. The Uniform System of Accounts ("USOA") was intended to help federal

and state regulators evaluate the operations of certain telecommunications service providers (principally, ILECs) using consistent sets of financial data covering specified types of revenues, expenses and transactions.¹⁷ However, even without the USOA, ILECs are required under the Communications Act and the FCC's rules to keep their books of account in accordance with generally accepted accounting principles ("GAAP"),¹⁸ and to keep accurate and complete accounts.¹⁹ Moreover, as a publicly traded company, ACS undergoes an independent audit each year.

ACS estimates that maintaining two separate sets of books may cost the company as much as \$1 million per year. ACS questions why this expense should be required when, for a number of years, the Commission has relied less and less on Part 32 as more and more companies such as the ACS LECs have had their federal support frozen and their interstate rates capped. ACS is obligated to maintain multiple sets of books, without any evident benefit to the public.

IV. **Ensuring Accountability** (§§1103-1116)

In the CAF Order, the Commission stated that ILECs who accept CAF Phase I support but fail to complete the required build-outs within the two- and three-year periods allowed by the Commission must repay the incremental support.²⁰ Recipients of Mobility Phase I support must post an irrevocable letter of credit ("LOC") in the full amount of the

¹⁷ 47 C.F.R. §§32.1-32.2, 32.11.

¹⁸ 47 C.F.R. §32.12(a).

¹⁹ 47 U.S.C. §220(e).

²⁰ *CAF Order* at para. 147.

support awarded “as it is disbursed” plus an additional default payment amount not to exceed twenty percent of the support amount.²¹ In subpart G of the FNPRM, the Commission seeks comment on various methods, including financial guarantees and penalties, to ensure greater accountability from recipients of federal universal service funding. FNPRM ¶¶1103-1105.

ACS agrees with the premise that ETCs should comply with the FCC’s rules in exchange for universal service support, but believes that some of the proposed enforcement measures could make it impossible for small entities to qualify for support. For example, ACS believes that the Commission’s LOC requirement for Mobility I awards already is too burdensome a requirement for a small entity with limited access to credit such as ACS. ACS recommends that the Commission reverse the LOC requirement for Mobility I and forego any such requirement for any universal service fund.

Self-reporting when an ETC has met its build-out requirements is a reasonable requirement, followed by field inspections to verify the facilities and services being provided. Following this type of basic fact-finding, but prior to any determination that an ETC has failed to meet the requisite build-out or service requirements or owes any repayment liability, an ETC always should be provided with a copy of the inspection report and given an opportunity to respond. FNPRM ¶1113. In this way, the facts can be sorted out before imposition of any “red light” status or finding of apparent liability. Refund liability should be imposed only after the Commission makes a final determination of an ETC deficiency, following notice and an opportunity to respond. Revocation of

²¹ *CAF Order* at paras. 444, 447.

ETC designation should be reserved for egregious cases of willful or repeated violations.

See FNPRM ¶1115.

V. **Reporting Obligations for Mobile Service Providers** (¶¶1117-1120)

ACS supports the proposal to modify reporting obligations for mobile service providers. FNPRM ¶1118. While ACS understands the desire to collect detailed information about unfilled demand for broadband service, the Commission correctly points out that individual requests for service are not relevant to the build-out and performance requirements adopted for the Mobility Fund. The performance of ETCs who are Mobility Fund recipients should be measured not at the individual customer premises but over a geographic area covered by their wireless transmitters. FNPRM ¶1118. ACS's own wireless affiliate does not have the automated tools for tracking individual service requests filled or unfulfilled, or for identifying which individual customer premises have adequate wireless broadband coverage.²² Indeed, current broadband coverage maps fail to reflect variations in coverage based on cell site location and known obstacles. In addition, ACS supports the proposal to modify outage reporting requirements for mobile service providers. FNPRM ¶1119. As explained above, it is practically impossible for CMRS carriers to count the number of customers affected by an outage because mobile wireless networks reach a geographic footprint, not a fixed set of customers. Therefore, mobile ETCs should be required only to describe the geographic area affected by a network outage, not the number of customers.

²² ACS's wireless affiliate is a CETC in Alaska and as such is required to report instances in which it denied supported services as well as certify that information on an annual basis to the Alaska Regulatory Commission, but this reporting is a manual and time-consuming process.

VI. **Mobility Fund Phase II** (§§1121-1188)

A. **Determining What Areas Are Eligible For Support According To Whether They Are Served By a Particular Technology**

ACS supports the goal of targeting mobility support to areas that lack 2G or better coverage. FNPRM ¶1124. However, ACS does not believe that the American Roamer data accurately depicts where particular mobile technologies are available in Alaska.²³

ACS also disagrees with the use of the centroid method for determining whether a particular census block is served by a specific technology. FNPRM ¶1124. ACS believes this will lead to absurd results, especially in the many parts of Alaska where small population centers are interspersed among unpopulated land masses or island groupings.

B. **Use of a Cost Model To Identify Areas Eligible For Support**

The Commission seeks comment on using a cost model to identify areas for which support could be sought in a Phase II Mobility Fund auction. FNPRM ¶1125. The FNPRM suggests that a model could be used alone, or in combination with information about where an area already is being served by unsubsidized providers, to narrow the number of locations where Mobility Fund II support is offered. *Id.*

ACS previously has been critical of the use of national cost proxy models to predict network costs in the unique Alaska environment. Cost proxy models used to identify the highest-cost areas of Alaska, and thus choose which areas should receive Mobility II support, typically fail to use realistic cost inputs for service providers operating in Alaska. For example, costs in Alaska are affected by the enormous scale of the state, the terrain and extremely harsh weather conditions, the short construction

²³ ACS personnel have reviewed the American Roamer data for Alaska and have noted numerous inaccuracies with regard to coverage indicated for Alaska.

season, higher-than-average labor costs, unusually long and costly backhaul (and sometimes the complete lack of, or otherwise constrained availability of backhaul), and other factors not germane to other regions of the United States. A useful cost model for high-cost areas of Alaska should take into account all of these factors.²⁴ While ACS plans to submit a model in response to the Commission's request for cost models on network costs,²⁵ its model will focus on the backhaul aspects of network costs, given the critical nature of this transport element in Alaska. ACS also plans to carefully review and provide comment on models submitted by other interested parties with a focus on the cost inputs for the last mile of a network and the impact of such models on Alaska.

Therefore, on balance, ACS supports a simpler approach for Alaska, in which the Commission offers support for every area not already served by an unsupported, *terrestrial-based* mobile services competitor.²⁶ The Commission should publish a list of such locations by state, and provide an opportunity for interested parties to offer evidence that an area should be removed from the list because it is served by an unsupported competitor, or targeted by a service provider that has made a public commitment to provide unsubsidized service by the end of 2013. *See* FNPRM ¶1125. Conversely, interested parties should be given an opportunity to suggest additions to the list of areas eligible for support; if an area is not on the list targeted for support, but is not served by

²⁴ *CAF Order* at para. 299.

²⁵ ACS plans to submit its model by the February 1, 2012 deadline set by the Commission, but ACS would be able to provide more detailed information and ensure greater accuracy of the information if it had more time to complete the model.

²⁶ Satellite coverage of a particular location should not be deemed service by an unsupported mobile broadband competitor for this purpose.

any unsupported terrestrial mobile broadband service provider, support should be offered at auction.²⁷

C. Framework for Competitive Bidding

The Commission seeks comment on various aspects of structuring the auction, including the minimum unit for bidding and support and bidder-defined approaches. The Commission proposes to use census blocks as the basic unit, but seeks comment on permitting aggregation of census blocks into census tracts or individually defined service areas. FNPRM ¶¶1126-1131.

ACS encourages the Commission to employ an approach that allows bidders as much flexibility as possible, based on the engineering, financial and service plans each bidder brings to the auction. Some Alaska service providers will be optimally positioned to serve discrete locations, while other providers may be able to generate efficiencies by aggregating multiple census blocks in the state. For each bidder, the optimal service area size or aggregation of service areas will differ. A single census block can be difficult to cover, particularly if it is very sparsely populated, because the Commission is requiring coverage throughout the cell area.²⁸ It is far more likely, therefore, that Alaska carriers would bid on individual census blocks, or selected census blocks, than on an entire census tract. Indeed, the Commission has acknowledged that, in Alaska, census tracts may be

²⁷ See *CAF Order* at para. 494 (designating \$500 million for ongoing support for mobile voice and broadband services in areas “where a private sector business case cannot be met without federal support”).

²⁸ FNPRM para. 1142 (proposing that required performance levels for Mobility Fund Phase II recipients should be achieved throughout the cell area, including at the cell edge, at a high probability and with substantial sector loading). See also *CAF Order* at para. 362 (coverage will be required to the cell edge).

inappropriately large as a minimum bidding unit or service area.²⁹ The Commission should permit Alaska bidders to define their bids accordingly. The Commission should provide further clarification in situations where a bidder has submitted a bid for aggregated census blocks, but has not been selected to receive funding to serve all of the census blocks covered by the bid. ACS urges the Commission to clarify that in such situations a bidder should be permitted to withdraw its bid and should not be obligated to accept funds and the associated build out requirements for any of the census blocks for which it has been awarded support. With only a single round bid, auction participants do not have the ability to re-evaluate the economic viability of their bids if circumstances surrounding the bid have changed, such as a bidding block having been disaggregated after the bid and upon award of funds. Again, this type of change may negate the economic viability of the bid and a bidder should be given the opportunity to withdraw in such a situation without penalty.

ACS notes with some concern that the FNPRM makes reference to possible use of a computer optimization tool to identify the set of user-defined bids that “maximizes the number of eligible road miles (or other supported units) covered subject to the budget constraint.” FNPRM ¶1129. ACS fears that, unless some amount of support is separately budgeted for Alaska, the state could receive zero funding in such a contest. With its very few road miles and sparse population, Alaska needs Mobility Fund support as much as any part of the country, but even a fund amount as great as \$500 million will be insufficient if the FCC’s goal is to maximize the number of supported road miles, population, or some other metric more appropriate for other regions. Competition for the Mobility Fund

²⁹ *CAF Order* at paras. 346-47.

should be fair to Alaska. Alaska carriers should not be made to compete for support from the Mobility Fund on the basis of road miles, which would skew support away from Alaska.

D. Term of Support

ACS supports the proposed support term of ten years. FNPRM ¶1138. The Commission is targeting Mobility Fund Phase II support at areas for which there is no business case to provide mobile voice and broadband service in the absence of such support. In Alaska, mobile services are a true lifeline in such areas – typically, areas that offer no public access to payphones or other emergency communications, and are not on any road system, but still are part of the commerce and community of the state. ACS believes that a minimum of ten years is necessary to give Alaska service providers the financial assurance they will require to extend and upgrade their networks in such places.

Further the Commission should codify an expectation that support will be renewed for a second term if the ETC meets the build-out and service requirements associated with the support. FNPRM ¶1139. Such an expectation not only would ensure that advanced services would remain available in high-cost areas beyond the initial ten-year term, but also would stimulate completion of build-out milestones *ahead of schedule*, because ETCs have a strong incentive to demonstrate to investors that long-term funding is stable and predictable.

E. Tribal and Alaska-Specific Issues

Finally, ACS comments on the FNPRM's proposals to address mobile voice and broadband coverage in Tribal lands, and specifically in Alaska. FNPRM ¶¶1165-1172. The Commission has established a budget of up to \$100 million per year in “ongoing

support for mobile broadband services to qualifying Tribal lands,” in addition to support budgeted for Tribal lands through the CAF. FNPRM ¶¶1165. The Commission seeks comment on performance obligations for service to Tribal lands and Tribal bidding preferences. FNPRM ¶¶1166-68. The Commission also asks whether any of its rules should be modified for Alaska service providers. FNPRM ¶¶1168-69, 1171-72.

ACS applauds the Commission’s determination to target high-cost funding to Tribal lands in addition to whatever amounts of general CAF and Mobility Fund support reach Tribal lands. ACS further supports the conclusion that providing enough support to sustain mobile services to Tribal lands, and Alaska in particular, will require some modifications to the approach adopted for one-time support to be provided through the Tribal Mobility Fund Phase I. FNPRM ¶1168. For example, ACS supports the suspension of performance obligations in areas where ETCs lack access to affordable, fiber-based terrestrial backhaul capability. FNPRM ¶1168. As ACS has explained in prior stages of these proceedings, satellite backhaul is both more expensive and less robust than fiber-based backhaul, though many locations in Alaska are connected to the outside world only by satellite today. Access to fiber-based backhaul should be deemed an essential prerequisite for affordable mobile voice and broadband service. Further, ACS believes that “middle mile” solutions should be covered by support from the Phase II Tribal Mobility Fund, and the cost of backhaul should be broken out in bids. In this way, the FCC can ensure that the winning bidder will be successful in providing end-to-end service, and no bidder will be penalized solely because it lacks access to reasonably priced backhaul.

ACS also supports permitting Tribally-owned or controlled providers to participate in the Phase II Tribal Mobility Fund auction for any eligible census block located within its own lands, even if the Tribal entity has not yet been designated as an ETC for that area. FNPRM ¶1167. ACS believes that this accommodation for Tribal entities, together with the Tribal engagement policy, will help facilitate expanded services to Tribal lands. FNPRM ¶¶ 1166-67. However, ACS notes that, uniquely in Alaska, Alaska Native Corporations own most of the Alaska Native lands in the State, including the lands surrounding most Alaska Native villages (totaling over 44 million acres).³⁰ Therefore, ACS believes that “Tribally-owned or controlled providers” in Alaska should be construed to include any Alaska Native Corporation or their subsidiaries (to the extent any of them apply to become ETCs), and that Alaska Native Corporations should be eligible to receive bidding credits under the same criteria as Tribes in other states.

In addition, ACS supports the Commission’s proposal to make all carriers serving in the Alaska Native Regions eligible for the same funding opportunities as carriers serving Tribal lands in the rest of the nation. FNPRM ¶ 1172. To date, Tribally-owned service providers have not emerged in Alaska in the way they have in other states. Instead, carriers such as ACS Wireless, Inc. provide mobile services throughout much of Alaska, without regard to individual Alaska Native Corporation regional boundaries. Any

³⁰ Tribal Lands as defined in the Commission’s February 9, 2011 Notice of Proposed Rulemaking in these dockets include all the Alaska Native Regions established pursuant to the Alaska Native Claims Settlement Act. 43 U.S.C. §§ 1601-1629; *See Connect America Fund et al*, Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking, WC Docket No. 10-90 *et al*, FCC 11-13, para. 303 (rel. Feb. 9, 2011). Alaska’s Native population is so widely distributed throughout Alaska that the Alaska Native Regions encompass the entire geographic area of the state.

mobile ETC proposing to serve Tribal lands in Alaska therefore should have the same priority (or bidding credit) for service in all the Alaska Native Regions. As the Commission has observed, unique operating conditions, as well as the unique status of Alaska Native Corporations, differentiate Alaska from the rest of the nation. FNPRM ¶1172.

VII. Conclusion

For the foregoing reasons, ACS urges the Commission to take into account the special circumstances faced by broadband providers in Alaska and tailor its ICC and USF reforms to the unique challenges and market conditions in the state. ACS urges the Commission to preserve the substantial benefits Alaska has realized from the USF support it has received over the years while simultaneously including Alaska in the broadband revolution.

Respectfully submitted,

/s/

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